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IN THE SENATE OF THE UNITED STATES.

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MAY 27, 1896.—Ordered to be printed.

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Mr. PALMER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2320.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2320) for the relief of Samuel Burrell, have considered the same and submit the following report:

A similar bill (H. R. 3128) was passed by the House and favorably reported from this committee in the Senate in the Fifty-third Congress on February 26, 1895, too late for final action. (See Senate Report No. 998, Fifty-third Congress, third session.)

The report of the Committee on Military Affairs of the present House is hereto appended and adopted and the passage of the bill again recommended.

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[House Report No. 221, Fifty-fourth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2320) for the relief of Samuel Burrell, having had the same under consideration, report that a similar bill, with the proviso hereinafter mentioned and recommended, was reported favorably upon and passed the House in the Fifty-first and Fifty-third Congresses.

In the Fifty-second Congress the Committee on Military Affairs submitted the following report:

“The Committee on Military Affairs, to whom was referred the bill (H. R. 2517) for the relief of Samuel Burrell, having had the same under consideration, beg to report that this applicant was mustered into the service in December, 1861, as first lieutenant of Company M, Fifth Illinois Cavalry, and was dishonorably discharged, for absence without proper authority, by sentence of a commission under date of April 3, 1863.

“The evidence shows that Lieutenant Burrell, being disabled, did, under the advice of the surgeon of his regiment, tender his resignation in September, 1862, and at the same time received a leave of absence

“The leave of absence was renewed once and the surgeon's certificate forwarded. His colonel, from time to time, informed him that he need have no apprehension; that his resignation would be accepted, and that it was not necessary for him to return to his regiment. He, however, did return to his regiment as soon as he was able to travel, still suffering from extreme disability caused by chronic diarrhea, and he was again returned to his home, receiving proper passes to go through the lines and an order for transportation, with the authority of the colonel of his regiment—said papers being still in existence. He again returned to his regiment, but was not placed on duty, the evidence showing that he was unfit for it, but no report had as yet been made upon his resignation. He was then called before a commission, which found that he had been technically guilty of being absent without leave, the

authority derived from the colonel of his regiment not being sufficient under military law, and he was accordingly dishonorably discharged for absence without proper authority.

"Your committee believe that Lieutenant Burrell did all a man could do to avoid violation of military law, but was too ill to properly appreciate technicalities and avoid them, and that he evinced a desire to perform duty and retain rank in the position he held; they therefore recommend the passage of the bill, amended by adding that 'he shall receive no pay or allowance by virtue of the passage of this act.'"

Which report was adopted and approved by the Committee on Military Affairs of the Fifty-third Congress, and which last committee further reported that—

"On the 12th of March, 1863, the officer in the temporary command of the regiment sent a report to the War Department stating that Mr. Burrell had absented himself without leave, and recommended his discharge, while on the 25th of March, 1863, thirteen days after making the above recommendation, the officer in command of the regiment wrote Mr. Burrell at his home, stating that his resignation had not yet been acted upon and advising Mr. Burrell not to return until they received notice of the action of the War Department; that during the time Mr. Burrell was absent he was advised from time to time by the commanding officer that it was not necessary for him to return until notified, and that Burrell was acting in good faith during his absence; that he returned to his command of his own accord before he was really able to do military duty, and was in the service at the time his discharge was ordered; that the evidence here presented has never been heard or considered by any commission."

The records of the War Department, as furnished to accompany S. 3051, Fifty-first Congress, first session, show that the dismissal from the service was of date April 13, 1863, and that the bill should be amended accordingly.

Your committee adopts and approves the reports of the several Committees on Military Affairs of the Fifty-first, Fifty second, and Fifty-third Congresses, and recommends that the bill (H. R. 2320) do pass, with the following amendments, viz:

Strike out all of line 8 and insert in lieu thereof the words: "April thirteenth, eighteen hundred and sixty-three;" also by adding thereto the following: "*Provided*, That he shall receive no pay or allowance by virtue of this act."